

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

RICKEY ELLIOTT, JR.)	
Plaintiff,)	
)	
)	
v.)	CIVIL ACTION NO.
)	10-10846-DPW
BOSTON POLICE DEPARTMENT,)	
JAMES ROWLEY, CITY OF BOSTON)	
LEGAL DEPARTMENT ROOM 615)	
BOSTON MA, LISA SKEHILL, ESQ.)	
Defendants.)	

MEMORANDUM AND ORDER
March 31, 2011

In this *pro se* civil rights action, the plaintiff Rickey Elliot, Jr. claims that Boston police officers used excessive force to arrest him, breaking his arm in the process. He further claims that the police failed for four days while he was in custody to attend to his broken arm. The complaint is not a model of clarity or specificity, but it appears that Elliot claims defendant police officer James Rowley was the arresting officer and that Rowley apologized for using excessive force. The complaint does not specifically identify the police personnel alleged to have been responsible for the failure to attend to Elliot's medical needs while he was in custody. The defendants have moved to dismiss the defendant's amended complaint.

As to the Boston Police Department as a defendant, I will allow the motion to dismiss. The Police Department, which as a

matter of pleading should have been identified as the City of Boston, *cf. Henschel v. Worcester Police Dep't*, 445 F.2d 624, (1st Cir. 1971), is not adequately alleged to have separate liability in this matter as a result of some policy, custom or practice causing harm to the plaintiff. *See generally, Connick v. Thompson*, 2011 WL 1119022, at *6-*8 (S.Ct. Mar. 29, 2011).

As to Officer Rowley, I will deny the motion to dismiss. While the complaint does not expressly state that he was the cause of the broken arm, the purported apology is sufficient to state a claim of excessive force against him.

Accordingly, I hereby grant and deny in part defendant's motion to dismiss (#13) and deny as premature plaintiff's motion for payment in civil action (#15). It is apparent that plaintiff has found his physical condition as a result of the arrest and later custodial circumstances make it difficult at this point to identify the specific officers who he says caused him harm. In order to expedite discovery, I ORDER counsel for Officer Rowley to arrange for Elliot to be provided with copies of all police documentation, created at whatever date, reflecting upon Elliot's arrest and his custody before he was transported for medical treatment. This documentation shall be provided

contemporaneously with the defendant's answer to the amended complaint.

/s/ Douglas P. Woodlock
DOUGLAS P. WOODLOCK
UNITED STATES DISTRICT JUDGE